

FAMILY LAW SECTION

Respectfully submits the following position on:

SB 0858

The Family Law Section is not the State Bar of Michigan itself, but rather a Section which members of the State Bar choose voluntarily to join, based on common professional interest.

The position expressed is that of the Family Law Section only and is not the position of the State Bar of Michigan.

To date, the State Bar does not have a position on this matter.

The total membership of the Family Law Section is 2,962.

The position was adopted after discussion and vote at a scheduled meeting. The number of members in the decision-making body is 21. The number who voted in favor to this position was 14. The number who voted opposed to this position was 3. The number who abstained was 1.

Report on Public Policy Position

Name of section:

Family Law Section

Contact person:

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Bill Number:

SB 0858 (Jones) Family law; paternity; revocation of paternity in cases where a child's birth is the result of criminal sexual conduct; clarify. Amends secs. 13 & 15 of 2012 PA 159 (MCL 722.1443 & 722.1445).

Date position was adopted:

April 9, 2016

Process used to take the ideological position:

Position adopted after discussion and vote at a scheduled meeting.

Number of members in the decision-making body:

21

Number who voted in favor and opposed to the position:

14 Voted for position

3 Voted against position

1 Abstained from vote

3 Did not vote (absent)

Position:

Oppose

Explanation of the position, including any recommended amendments:

SB 858 amends the Revocation of Paternity Act to allow a woman who can prove by clear and convincing evidence that her child was conceived as a result of first, second or third degree CSC to revoke the paternity of the offending father. This would allow the offender to escape any further obligation for child support. This may be inappropriate, particularly if the child is, or in the future may be, supported in whole or in part by public assistance.

Michigan law already provides for more appropriate remedies for these cases. MCL 722.25 bars a custody award to a parent convicted of CSC resulting in the birth of the child, and has the appropriate exemption for parents who cohabitate after the birth of the child. For public assistance cases, DHHS allows a parent to file a DHS-2168 to claim good cause for not proceeding with a paternity action. The proposed statute would reward offending parents

by eliminating their child support, and would be overbroad in other cases, especially where the parents cohabitated after the birth of the child. The Family Law Section opposes this bill.

The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report.

<http://legislature.mi.gov/doc.aspx?2016-SB-0858>

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